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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

F. G. CROSTHWAITE, et al., as Trustees of
of the OPERATING ENGINEERS' HEALTH
AND WELFARE TRUST FUND FOR
NORTHERN CALIFORNIA, et al.

Plaintiffs,

v.

DJK CONSTRUCTION, INC., a California
corporation,

Defendant.

Case No.: C12-5088 WHO

**REQUEST TO CONTINUE CASE
MANAGEMENT CONFERENCE;
PLAINTIFFS' CASE MANAGEMENT
CONFERENCE STATEMENT;
ORDER THEREON**

Date: October 1, 2013

Time: 2:00 p.m.

Ctrm: 2, 17th Floor

Judge: The Honorable William H. Orrick

Plaintiffs herein respectfully submit their Case Management Statement, requesting that the Case Management Conference, currently on calendar for October 1, 2013, be continued for thirty (30) days in anticipation of the parties resolving the matter.

1. As the Court's records will reflect, a Complaint was filed in this Action on October 2, 2012, to compel Defendant's compliance with the terms of its Collective Bargaining Agreement.

2. Service on Defendant was effectuated on November 14, 2012, and a Proof of Service of Summons was filed with the Court on November 16, 2012. (Dkt. #5).

3. Defendant failed to plead or otherwise defend or appear in this action. On

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**REQUEST FOR CONTINUANCE OF CASE MANAGEMENT CONFERENCE
Case No.: C12-5088 WHO**

1 December 14, 2012, the Court entered the default of the Defendant. (Dkt. #9).

2 4. Defendant thereafter advised Plaintiffs that the general contractor on its project was
 3 withholding payment, and refused to enter a payment schedule, stating that Plaintiffs should obtain
 4 that payment withheld, to satisfy Defendant's debt to Plaintiffs. Defendant provided certified
 5 payroll reports to Plaintiffs to confirm the hours worked on the project, and Plaintiffs did pursue
 6 payment from the contractor, who also refused to pay. Plaintiffs filed a stop payment notice and a
 7 mechanics lien on the project, only to discover that a Notice of Completion had been filed some
 8 months earlier, voiding Plaintiffs' claims.

9 5. Plaintiffs first requested a Continuance of the Case Management Conference on
 10 March 28, 2013 to again attempt to obtain resolution with Defendant, through counsel who has
 11 assisted Defendant in this matter since November 2012. (Dkt. #14). Counsel stated he is assisting
 12 but not representing Defendant, and has made no appearance in this action. On March 29, 2013,
 13 the Honorable Judge Edward M. Chen granted Plaintiffs' request, and the Case Management
 14 Conference was rescheduled to July 11, 2013. (Dkt. #15).

15 6. On June 27, 2013, the case was reassigned to The Honorable Judge William H.
 16 Orrick and the previously scheduled Case Management Conference was vacated. On July 12,
 17 2013, Plaintiffs submitted their Case Management Statement. (Dkt. #17).

18 7. On September 22, 2013, the Case Management Conference was rescheduled to
 19 October 1, 2013. (Dkt. #18).

20 8. Both parties engaged in settlement discussions and a previously agreed-upon
 21 Judgment Pursuant to Stipulation was issued to Defendant's attorney on September 13, 2013 for
 22 execution by Defendant. Upon receipt of the executed Judgment Pursuant to Stipulation, Plaintiffs
 23 will file the Judgment for entry by the Court.

24 9. There are no issues that need to be addressed at the currently scheduled Case
 25 Management Conference. In the interest of conserving costs as well as the Court's time and
 26 resources, Plaintiffs respectfully request that the Case Management Conference, currently
 27 scheduled for October 1, 2013, be continued for thirty (30) days to allow for Defendant's
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1 execution of Plaintiffs' proposed Judgment Pursuant to Stipulation.
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4 I declare under penalty of perjury that I am the attorney for the Plaintiffs in the above
5 entitled action, and that the foregoing is true of my own knowledge.
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7 Executed this 24th day of September 2013, at San Francisco, California.
8 SALTZMAN & JOHNSON
9 LAW CORPORATION

10 By: _____ /S/
11 Muriel B. Kaplan
12 Attorneys for Plaintiffs
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14 IT IS SO ORDERED.
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16 Based on the foregoing, and GOOD CAUSE APPEARING, the currently set Case
17 Management Conference is hereby continued to November 5, 2013. All related deadlines are
18 extended accordingly.
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20 Date: September 24, 2013
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23 THE HONORABLE WILLIAM H. ORRICK
24 UNITED STATES DISTRICT COURT JUDGE
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